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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,122	07/08/2003	Motoya Hayase	JCF-0002	9090

7590 02/09/2007

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EXAMINER	
STIGELL, THEODORE J	
ART UNIT	PAPER NUMBER
3763	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/615,122	HAYASE ET AL.	
	Examiner	Art Unit	
	Theodore J. Stigell	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *5,10,11 and 17-20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-9 and 12-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I and Species B (claims 1-4, 6-9, and 12-16) in the reply filed on 12/21/2006 is acknowledged.

Claims 5, 10-11, and 17-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species/invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-9, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaneshige (6,527,737). Kaneshige discloses a catheter for insertion into a biological conduit comprising an elongate catheter shaft (1) having a proximal end and a distal end, a material collection chamber (inside lumen of 1), located within the catheter body, a controllably arcuate segment (16) including at least one opening (slits) that create a fluid path between the material collection chamber and an exterior portion, and a sliding member (6) that moves material received through the arcuate segment opening into the material collection chamber away from the opening (the wire (6) opens the slits and creates a flow therethrough), further comprising suction means (23) near the proximal end, an aspiration chamber (2), and a one-way valve (4), wherein the

material collection chamber is proximal to the controllably arcuate segment, further comprising a material extraction lumen (lumen of 1), wherein the controllably arcuate segment has a normally bowed bias, wherein the segment is straightened by the sliding member, wherein the sliding member is attached to a flexible shaft (proximal end of 6), and further comprising a rotational orientation element (22).

Claims 1-3, 6-8, and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chee (6,017,323). Chee discloses a catheter for insertion into a biological conduit comprising an elongate catheter shaft (100) having a proximal end and a distal end, a material collection chamber (inside lumen of 100), located within the catheter body, a controllably arcuate segment (102,104) including at least one opening (120) that create a fluid path between the material collection chamber and an exterior portion, and a sliding member (124) that moves material received through the arcuate segment opening into the material collection chamber away from the opening, further comprising suction means near the proximal end, an aspiration chamber, wherein the material collection chamber is proximal to the controllably arcuate segment, further comprising a material extraction lumen (lumen of 100), wherein the controllably arcuate segment has a normally bowed bias, wherein the sliding member has a cutting edge, wherein the sliding member is attached to a flexible shaft (106), and further comprising a rotational orientation element (116).

Claims 1-7 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunter (3,081,770). Hunter discloses a catheter for insertion into a biological conduit comprising an elongate catheter shaft (106) having a proximal end and a distal end, a

material collection chamber (inside lumen of 106), located within the catheter body, a controllably arcuate segment (distal end of 106, any catheter or needle that can be bent is controllably arcuate) including at least one opening (108,110) that create a fluid path between the material collection chamber and an exterior portion, and a sliding member (112) that moves material received through the arcuate segment opening into the material collection chamber away from the opening, further comprising suction means near the proximal end, an aspiration chamber (inside of 78), and a one-way valve (96), wherein the material collection chamber is proximal to the controllably arcuate segment, further comprising a material extraction lumen (lumen of 106), wherein the sliding member is attached to a flexible shaft (104), and further comprising a rotational orientation element (88).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Theodore J. Stigell

Theodore J. Stigell